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Released: May 8, 1998

Reply Comment Date: July 14, 1998

1. The Commission has before it the petition for rule making filed by Grayson Broadcasting Company ("petitioner") proposing the allotment of Channel 273C3 to Pottsboro, Texas, as the community's first local aural transmission service. To accommodate the allotment at Pottsboro, petitioner also requests the substitution of Channel 292A for Channel 296A for Station KLBC at Durant, Oklahoma, the modification of Station KLBC's license;¹ the substitution of Channel 296A for Channel 272A² for Station KMAD at Madill, Oklahoma, or alternatively the substitution of Channel 296C3 for Channel 272A at Madill, and the

¹ Petitioner's acknowledges that Channel 296C3 is reserved for Station KLBC but proposes that the Commission downgrade the allotment at Durant to reflect KLBC present operating status as a Class A facility.

² On April 29, 1996, the Commission released a Report and Order in MM Docket No. 95-126 in which Channel 273A was substituted for Channel 272A at Madill, Oklahoma. On June 14, 1996, Carephil Communications filed a Petition for Reconsideration of that action. Carephil's Petition for Reconsideration was denied and subsequently Carephil filed an Application for Review on August 18, 1998. The Commission as taken no action regarding the Application for Review. However, we have found petitioner's request to substitute Channel 296A for Channel 272A at Madill is not contingent upon final action in MM Docket No. 95-126.

modification of Station KLBC's license.³ Petitioner states it will apply for Channel 273C3 at Pottsboro, if allotted.

2. In support of its proposal, petitioner states that Pottsboro is an incorporated community with a 1990 U.S. Census population of 1,177 persons. Petitioner advises Pottsboro has its own mayor and city council, police and fire department, post office, library and independent school district. The Pottsboro Chamber of Commerce lists over 50 business organizations located within the community. Petitioner submits that the community has three churches, two dentists, one veterinarian, and one weekly newspaper, the Pottsboro Press. Petitioner states it will reimburse the licensees of Stations KLBC, Durant, and KMAD-FM, Madill, Oklahoma, for their reasonable and prudent costs associated with implementing the requested channel changes. With respect to Station KMAD-FM, petitioner states its reimbursement pledge extends only to the substitution of Channel 296A for Channel 273A at Madill, but will not include the purchase of any additional equipment should KMAD-FM elect to upgrade its facility.

3. We believe petitioner's proposal warrants consideration since it could provide Pottsboro with its first local aural transmission service. In order to accommodate petitioner's proposal, we also propose the substitution of Channel 292A for Channel 296C3 at Durant, Oklahoma, and the modification of Station KLBC's license to reflect the downgrade and alternate Class A channel; the substitution of Channel 296A for Channel 273A at Madill, Oklahoma, and the modification of KMAD-FM's license. Channels 273C3, 292A and 296A can be allotted to Pottsboro, Texas, Durant and Madill, Oklahoma, respectively, in compliance with the Commission's minimum distance separation requirements. Channel 273C3 can be allotted to Pottsboro without the imposition of a site restriction.⁴ Channel 292A can be allotted to Durant, Oklahoma, and Channel 296A can be allotted to Madill, Oklahoma, at the licensed sites of Station KLBC and Station KMAD-FM, respectively.⁵

4. Accordingly, we seek comments on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, for the communities listed below, to read as follows:

³ On April 21, 1998, Steve Landtroop, Inc., licensee of Station KMAD-FM, Madill, Oklahoma, filed an one-step application (9804211IH) requesting the upgrade of Station KMAD's facilities at Madill. Petitioner's proposal to substitute an alternate Class A channel at Madill does not foreclose on KMAD-FM's ability to upgrade its facilities since the allotment at Pottsboro, Texas, will accommodate KMAD's upgrade on Channel 296C3.

⁴ The coordinates for Channel 273C3 at Pottsboro, Texas, are 33-46-20 NL and 96-40-18 WL.

⁵ The coordinates for Channel 292A at Durant, Oklahoma, are 34-00-07 NL and 96-25-19 WL. The coordinates for Channel 296A at Madill, Oklahoma, are 34-06-24 NL and 96-46-30 WL.

<u>City</u>	<u>Channel No.</u>	
	<u>Present</u>	<u>Proposed</u>
Pottsboro, Texas	--	273C3
Durant, Oklahoma	248C2, 296C2 ⁶	248C2, 292A
Madill, Oklahoma	273A	296A

5. Accordingly, IT IS ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, Durant Broadcasting Corporation, licensee of Station KLBC, Durant, Oklahoma, and Steve Landtroop, Inc., licensee of Station KMAD-FM, Madill, Oklahoma, SHALL SHOW CAUSE why their licenses SHOULD NOT BE MODIFIED to specify operation on Channel 292A and Channel 296A, respectively, as proposed herein instead of the present Channels 296A and 273A.

6. Pursuant to Section 1.87 of the Commission's Rules, Durant Broadcasting Corporation and Steve Landtroop, Inc., may, not later than June 29, 1998, file a written statement showing with particularity why their license should not be modified as proposed in the Order to Show Cause. The Commission may call on Durant Broadcasting Corporation and Steve Landtroop, Inc., to furnish additional information. If Durant Broadcasting Corporation and Steve Landtroop, Inc. raise a substantial and material question of fact, a hearing may be required to resolve such a question pursuant to Section 1.87. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, Durant Broadcasting Corporation and Steve Landtroop, Inc., will be deemed to have consented to the modification as proposed in the Order to Show Cause and a final Order will be issued by the Commission, if the above-mentioned channel modifications are ultimately found to be in the public interest.

7. IT IS FURTHER ORDERED, That the Secretary SHALL SEND, BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, a copy of this Notice of Proposed Rule Making and Order to Show Cause to the following:

Durant Broadcasting Corporation
1418 North First
Durant, Oklahoma 74701
(Licensee of Station KLBC)

⁶ Station KLBC was downgraded from Class C2 to Class C3 by grant of BMPH-9404011A.

Steve Landtroop, Inc.
1418 N. First Street
Durant, Oklahoma 73446
(Licensee of Station KMAD-FM)

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

9. Interested parties may file comments on or before June 29, 1998, and reply comments on or before July 14, 1998, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Secretary, Federal Communications Commission, Washington, DC 20554. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Andrew S. Kersting
Fletcher, Heald & Hildreth, P.L.C.
11th Floor, 1300 North 17th Street
Rosslyn, Virginia 22209-3801
(Counsel for petitioner)

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, February 9, 1981.

11. For further information concerning this proceeding, contact Pam Blumenthal, Mass Media Bureau, (202)418-2180. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. An ex parte presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement.

Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

Attachment: Appendix

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off protection. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposals in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be

accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal Communications Commission, Washington, DC 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW, Washington, DC.